THE HONOURABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 22699 of 2007

Date:26-10-2007

Between:

Gorla Cheeralu and another

…Petitioners

AND

The State of A.P. rep. By its Principal Secretary, Revenue Dept., Hyderabad and three others

.. Respondents

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ORDER:

The petitioners seek a writ of mandamus to declare the letter No.12281/06, dated 16.07.2007 issued by the 3rd respondent and action of the respondents in trying to dispossess them from the land admeasuring Ac.3.00 guntas each in Sy.No.101/44, 101/45 and 101/46 at Ullampalli village, Chigurumamidi mandal, Karimnagar District, as illegal and arbitrary.

It is stated that Sadula Ranganayakamma filed W.P.No.21885 of 2007, which was disposed of by this Court directing the respondents not to dispossess the petitioners therein from their lands without following due process of law.

It is the case of the petitioners herein that they are the sons of late Gorla Mallaiah and they are living separately. It is stated that the government has assigned land admeasuring Ac.3.00 guntas each to the petitioners and their father in Sy.Nos. Sy.No.101/44, 101/45 and 101/46 at Ullampalli village, Chigurumamidi mandal, Karimnagar District vide patta certificate A.3/279/80,
dated 30.11.1980. It is stated that the father of the petitioners died in the year 1995. Thus, it is the case of the petitioners that none of the assignees have violated any terms and conditions of the assignment rules and there was no transfer of the said land and the petitioners have been enjoying the said property.

While so, the 3rd respondent addressed the letter impugned No.12281/06, dated 16.07.2007 stating that the first petitioner is not cultivating the said land and the land assigned in favour of the first

petitioner is in physical possession of the second petitioner and the land was assigned in favour of Gorla Mallaiah, the father of the petitioners and therefore, the assigned land after the death of said Mallaiah is in possession of the petitioners and they have not contravened any of the provisions of A.P. Assigned Land (Prohibition of Transfer) Act (for short 'the Act'). But, the third respondent without any justification or any application of mind passed the order directing the 4th respondent to resume the said land in utter violation of principles of natural justice and also in contravention of the said Act.

I am of the opinion that the said order passed by the third respondent is arbitrary and without any enquiry and against the principles of natural justice.

Accordingly, the writ petition is allowed and the impugned order, dated 16.07.2007 passed by the third respondent is set aside directing the respondents not to dispossess the petitioners from their lands or interfere with their peaceful possession and enjoyment of the lands in any manner. However, it is open for the respondents to follow the due procedure prescribed under law before taking any action against the petitioners. There shall be no order as to costs.

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V.ESWARAIAH, J.

Date:26.10.2007
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